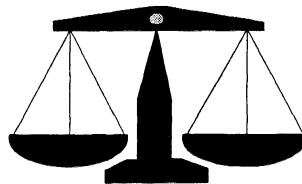


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JUL 29 2003

**A SUMMARY OF SELECTED BILLS  
TRULY AGREED TO AND FINALLY PASSED  
By The  
92nd General Assembly  
First Regular Session**



**Prepared By  
Office of State Courts Administrator  
July 2003**

## TABLE OF CONTENTS

	<u>Page</u>
Senate Bills and House Bills Listed by Bill Number .....	i
Introduction .....	1
Bill Summaries .....	2

## SENATE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
SB 1	WATERCRAFT PROVISIONS.....	2
SB 5	SENTENCING PROVISIONS .....	2
SB 39	METHAMPHETAMINE RELIEF TASKFORCE.....	3
SB 63	TERMINATION OF PARENTAL RIGHTS .....	3
SB 101	MUNICIPAL COURTS .....	3
SB 184	CRIMINAL RECORDS .....	3
SB 186	MARION COUNTY CIRCUIT CLERK.....	4
SB 199	COUNTY CRIME REDUCTION FUND.....	4
SB 203	ADMINISTRATIVE SUBPOENAS .....	4
SB 248	STATE EMPLOYEES' RETIREMENT .....	4
SB 280	TORT REFORM .....	5
SB 399	DELIVERY OF CONTROLLED SUBSTANCES.....	6
SB 401	DEFINITION OF CRIME .....	6
SB 426	DISASTER SERVICE .....	6
SB 447	BASIC CIVIL LEGAL SERVICES FUND .....	7
SB 448	STATEWIDE COURT AUTOMATION .....	7
SB 457	JUDICIAL CONFERENCE .....	7
SB 465	JUDICIAL FINANCE COMMISSION REPORT .....	7
SB 466	STANDARD FEE.....	7
SB 467	CRIME VICTIMS' COMPENSATION FUND.....	7
SB 468	LAW ENFORCEMENT RECORDS .....	7
SB 471	CHILD SUPPORT WITHHOLDING .....	7
SB 474	COURT SURCHARGES .....	8
SB 537	BOONE COUNTY COUNSELOR .....	8
SB 552	PROPERTY EXEMPT FROM ATTACHMENT .....	8
SB 556	PROTECTION OF THE ELDERLY .....	8

## HOUSE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
HB 133	ELECTION CONTESTS INVOLVING SOME JUDGES .....	9
HB 138	DEPARTMENT OF CORRECTIONS/OFFENDERS .....	9
HB 141	ADMINISTRATIVE SUBPOENAS PROCEDURE .....	9
HB 228	UNSOLOICITED ELECTRONIC MAIL .....	9
HB 253	SSN/ORDERS OF PROTECTION.....	9
HB 254	UNIFORM ELECTRONIC TRANSACTIONS ACT .....	10
HB 318	CASS COUNTY MUNICIPAL COURT.....	10
HB 327	TRANSPORTATION .....	10
HB 349	CONCEALED WEAPONS .....	10
HB 430	JUDICIAL CONFERENCE.....	10
HB 470	METHAMPHETAMINE REVISIONS .....	11
HB 552	LAW LIBRARY FUNDS.....	11
HB 599	JACKSON COUNTY MUNICIPAL COURT COSTS.....	11
HB 600	INCOME TAX REFUND OFFSET .....	11
HB 613	COURT PROCEDURES .....	11
HB 679	FOSTER CARE REFORM .....	13

## INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Bills become effective August 28, 2003, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room  
State Capitol  
Jefferson City, Missouri 65101

House Post Office  
State Capitol  
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

## SENATE BILLS

### SCS#2/SB 1 WATERCRAFT PROVISIONS

Beginning January 1, 2005, any person born after August 28, 1984 shall possess a boating safety identification card in order to operate a vessel on the lakes of this state. The State Water Patrol will issue the card. The card will be issued to persons who: (1) have successfully completed a boating safety course certified by the State Water Patrol; (2) have passed an equivalency examination prepared and administered by the State Water Patrol; or (3) hold a valid master's, mate's, or operator's license issued by the United States Coast Guard.

The State Water Patrol may charge a fee for the card that does not substantially exceed the administrative cost of this provision. No individual will be stopped or detained for the purpose of checking to see if the individual holds a boating safety identification card. The act also requires that any person convicted of certain boating offenses must enroll and complete a boating safety education course which meets the State Water Patrol's minimum standards, file proof of successful completion of the course with the court, and not operate a vessel until filing proof. Chapter 306, RSMo

### HS HCS SS SCS SB 5 SENTENCING PROVISIONS

Among other provisions, the legislation will create several new crimes; expand the definition of "dangerous felony"; create an additional circuit court judge in the 13<sup>th</sup> judicial circuit, beginning 1/1/07; and, make changes in the law relating to sentencing criminal offenders and the terms of certain sentences.

The legislation: adds alcohol treatment to substance abuse programs for offenders; eliminates mandatory probation services for misdemeanor Chapter 570, RSMo, offenses (Section 217.750); requires that in all felony cases where the recommended sentence established by the sentencing advisory commission includes probation but the prosecuting attorney does not include probation, the Board of Probation and Parole shall provide the judge with a report on available alternatives to incarceration prior to sentencing; adds to the list of requirements for the presentence or preparole report three additional requirements: (1) Information concerning the impact of the crime on the victim; (2) Recommended sentence established by the Sentencing Advisory Commission; and (3) Available alternatives to incarceration including opportunities for restorative justice (Section 217.760); provides that beginning on January 1, 2007, the number of circuit judges in the 13th judicial circuit shall increase from three to four. The fourth circuit judge shall be elected in 2006 for a two-year term and thereafter in 2008 for a full four-year term (Section 478.610); adds to the list of dangerous felonies the following: (1) first degree assault of a law enforcement officer; (2) first degree domestic assault; (3) first degree elder abuse; (4) first degree statutory rape if victim is less than 12 years old; and (5) first degree statutory sodomy if the victim is less than 12 years old (Section 556.061); creates a bifurcated trial if the jury reaches a guilty verdict (a second hearing shall be conducted for the jury to determine the extent or duration of sentence or other disposition based on the nature and circumstances of the offense and the history of the defendant) (Section 557.036); changes the maximum punishment for a Class D felony from 5 years to 4 years (Section 558.011); changes authorized maximum terms for persistent and dangerous offenders (Section 558.016); allows a previous offender to be released if he or she serves 30% of the sentence or obtains age 70, whichever occurs first; provides that, if there is a Suspended Imposition of Sentence or a Suspended Execution of Sentence, the court may consider several restorative justice methods (Section 558.019); requires the sentencing commission to study alternative sentences and report the recommendations to the General Assembly by July 1; provides that detention up to 48 hours shall be a condition of probation after the determination by a probation or parole officer that the offender violated a condition of continued probation or parole (Section 559.026) and that a circuit court has the power to grant probation to an offender anytime up to 120 days after he or she has been delivered to the Department of Corrections; adds an exception to the

reporting rule if the person is being granted probation pursuant to successful completion of a 120-day program; adds emergency personnel to the crimes of first, second and third degree assault of a law enforcement officer (Sections 565.081, 565.082, 565.083); creates the crime of tampering with a prescription drug; increases the stealing penalties for theft of any material used to manufacture methamphetamine to a Class C felony; allows peace officers completing POST training to carry a concealed weapon whether on or off duty, and whether inside or outside of his or her jurisdiction (Section 571.030); and, grants victims the right to be present at all criminal trials, even if he or she is only a witness (Section 595.209).

The legislation provides for a \$2.00 surcharge on all criminal cases, upon approval of the governing body of the county or city not within a county. The surcharge will also be imposed on juvenile violators of §211.031.1(3) (violate a state law or municipal ordinance). Monies from the fund will go to the local "Inmate Security Fund."

The legislation also assesses a \$4.00 surcharge in all criminal cases, including traffic and ordinance violations, to be paid to the prosecuting attorneys' and circuit attorneys' retirement fund.

This bill has an emergency clause; it was signed on 6/27/03.

#### **CCS HCS SB 39 METHAMPHETAMINE RELIEF TASKFORCE**

This bill creates the "Missouri Sheriff Methamphetamine Relief Taskforce"; provides revisions in Chapter 195 including new crimes; and assesses a surcharge of \$150 in Chapter 195 violations where a crime laboratory makes an analysis of a controlled substance. Where costs are waived or charges are dismissed, no surcharge is to be assessed. §195.211, 195.214, 195.218, 195.417, and 650.105, RSMo

#### **SB 63 TERMINATION OF PARENTAL RIGHTS**

Provides that a ruling on a petition for termination of parental rights is deemed a final ruling for the purposes of appeal. §211.477, RSMo

#### **HCS SB 101 MUNICIPAL COURTS**

Provides that Cass County may mandate that all county traffic violations are to be heard by an associate circuit judge. Chapter 67, RSMo (Identical to HB 318)

#### **HS HCS SB 184 CRIMINAL RECORDS**

This bill makes various changes in the law relating to criminal records and other records used by law enforcement, including defining "Missouri Charge Code." The bill repeals a section of law prohibiting the fingerprinting of a juvenile, and makes other changes relating to fingerprinting. The charge for background checks for the administration of criminal justice or for state agencies screening employees or applicants for employment is waived.

This bill defines an authorized state agency, provider and qualified entity and allows a qualified entity to obtain a Missouri criminal record review of a provider from the Highway Patrol. All information obtained through this background check shall be used solely for internal purposes of determining the suitability of the provider. A person disclosing information beyond the scope allowed is guilty of a Class A misdemeanor.

The bill revises the Board of County Visitors, which inspects all corrective institutions supported by a county. This bill allows the Board of Visitors to address a report to the presiding judge, sheriff and county commissioners if there is a problem that may be injurious to the county and requires it to provide recommendations to the presiding judge of the circuit court, the sheriff and the county commission.

The bill requires the Highway Patrol, upon appropriation, to post a statewide sexual offender list on the Internet. This will allow the public to search for registered sexual offenders by name, zip code and mile radius from any address.

The bill also expands the list of entities that may access closed records. A criminal justice agency receiving a request for criminal history information may require fingerprints prior to releasing closed record information.

Any person who requests expungement of an arrest record must submit fingerprints at the time of filing a petition to expunge for the sole purpose of positively identifying the petitioner.

Applicants for a direct care position at a mental health facility shall sign a consent form to conduct a criminal background check and disclose his or her criminal history. The applicant is also required to disclose if he or she is listed on the employee disqualification list. It is a Class A misdemeanor for an applicant to knowingly fail to disclose his or her criminal history and it is a Class A misdemeanor for a provider to knowingly hire a person who has been disqualified from employment at a mental health facility. §43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 221.320, 221.340, 221.350, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170

#### **CCS HCS SB 186 MARION COUNTY CIRCUIT CLERK**

Removes the ability of the Marion County Circuit Court to appoint the Div. I circuit clerk if the office is separated from the recorder of deeds, and requires that Platte & Clay Counties have appointed clerks. §59.041, 59.042, and 483.015, RSMo

#### **CCS HS HCH SCS SB 199 COUNTY CRIME REDUCTION FUND**

This bill has provisions relating to county assessed valuation. It also contains provisions that would authorize county commissions to create local crime reduction funds and authorize courts to require misdemeanor defendants to pay into the local funds amounts up to \$250.00 as part of a restorative justice program. §48.020, 48.030, 50.550, 50.740, 56.640, 67.1775, 135.207, 304.010, 473.730, 558.019, and 559.021, RSMo, and §67.399, RSMo

#### **SB 203 ADMINISTRATIVE SUBPOENAS**

Provides that the party requesting an administrative subpoena shall enforce the subpoena in circuit court. The involved agency and any party to the action is permitted to intervene in the enforcement action. §536.077, RSMo

#### **CCS HS HCS SS#2 SCS SB 248, 100, 118, 233, 247, 341, & 420 STATE EMPLOYEES' RETIREMENT**

This bill contains numerous provisions including:

Changes the eligibility age for retirement from 50 to 48 for the Missouri State Employees Retirement System and the Highway and Transportation Employees' and Highway Patrol Retirement System.

Provides a medical insurance incentive for state employees to retire. Employees who retire after February 1, 2003, and prior to September 1, 2003, or are eligible to retire by February 1, 2004, and who are eligible for medical coverage, will be eligible to continue at the same rate in effect for active employees. This rate will continue for five years or until becoming Medicare eligible, whichever occurs first. The retiree may elect to continue coverage for themselves and eligible dependents. Benefits for those eligible to retire between September 1, 2003 and February 1, 2004, who elect to retire pursuant to these provisions will have their retirement benefits calculated based on their actual years of service. This bill has an emergency clause; it was signed on 6/19/03.

## SS SS SCS SB 280 TORT REFORM

This bill provides numerous tort reform measures including:

**LIENS FOR HEALTH PRACTITIONERS** (Section 430.225) - Allows liens for health practitioners who provide medical services to patients injured by tortfeasors.

**VENUE** (Sections 508.010, 508.040 and 508.120) - This provision requires that venue in all tort actions, including torts for improper healthcare but excluding suits against motor carriers, shall only be in county where cause of action accrued. Residence for a corporation is either the county where the registered agent is located, or if no such agent exists, then Cole County. In suits against corporations, venue shall only be in the county where the cause of action accrued or the county of the corporation's residence. The act allows any defendant to move for change of venue upon the adding of a new defendant if current venue would have been inappropriate if new defendant had initially been named.

**VENUE TRANSFER** (Section 508.075) - A court shall dismiss or transfer venue for a cause of action accruing outside the county in which the court is located if there is another more convenient venue. The determination of convenience is based on a number of factors, including: location of accrual of cause, location of fact witnesses and health care providers, and residence of the parties. A motion to transfer venue may be filed within 90 days after answer is due. A party filing a case in a county where none of the defendants reside or where cause accrued shall bear the burden that the pending venue is more convenient than a forum in which defendants reside or cause accrued. If court grants the motion, then the case is either transferred or dismissed so that the plaintiff can file in a more convenient forum in another state. If the case is dismissed and the plaintiff files in another state with jurisdiction within six months, then defendants must accept service. If any defendant refuses or the court in the other forum refuses to accept jurisdiction, then the case is reinstated in the court where it was dismissed.

**PUNITIVE DAMAGES** (Section 510.263) - In tort actions, including for improper healthcare, the act allows discovery of defendant's assets only after judge determines that plaintiff has a submissible case on punitive damages. Includes definition of "punitive damages." With certain exceptions, punitive damages are capped at the greater of \$500,000 or five times the net amount of the plaintiff's judgment.

**CLASS ACTION CERTIFICATION** (Section 512.020) - Orders granting or denying class certification shall be appealable. The court of appeals must accept the appeal, but the circuit court or court of appeals will have discretion on whether to stay proceedings pending appeal. Orders granting or denying a motion based on convenient forum shall be appealable.

**SUPERSEDEAS BONDS** (Section 512.099) - This act establishes a \$50 million limit on supersedeas bonds if the appellant proves that it has unencumbered assets that equal or exceed the amount of the judgement in excess of \$50 million. If the appellant fails to maintain such level of assets or is purposely dissipating assets outside the ordinary course of business to avoid payment of the judgment, then the court may require a bond equal to the full amount of the judgment.

**JOINT AND SEVERAL LIABILITY** (Section 537.067) - Provides for joint and several liability for compensatory and non-economic damages if a defendant is found to bear 50% or more of the fault, but only makes a defendant liable for their portion of fault for punitive damages.

**NONECONOMIC DAMAGES** (Section 537.071) - This act limits non-economic damages in tort actions to \$350,000.

**MEDIATION** (Section 537.072) - This provision requires mediation for all tort actions unless the court finds that mediation has no chance of success.

**ATTORNEY CONTINGENCY FEES** (Section 537.767) - Limits attorneys' contingency fees in all tort actions, other than medical malpractice, to 33% of the first \$500,000, 28% of the next \$500,000 and 15% of all damages recovered in excess of \$1 million.

**DEFINITIONS** (Section 538.205) - Adds long-term care facilities (convalescent, nursing and boarding homes) to definition of "health care provider" as used in tort actions based on improper health care. Modifies definition of "punitive damages" to include exemplary damages and damages for aggravating circumstances.

**MEDICAL MALPRACTICE NONECONOMIC DAMAGES CAP** (Section 538.210) - This provision removes the words "per occurrence" to ensure that there is a single cap, and not multiple caps per incidents of medical malpractice as held by the court in Scott v. SSM Healthcare. Provides for a cap on noneconomic damages of \$350,000 and that periodic inflationary increases from the cap shall begin on August 28, 2003. Defines "defendant" to include an entity or person that is sued in an action against a health care provider or in action for rendering of health care services. No hospital or health care provider shall be liable for actions of entity or person who is not an employee of such hospital or health care provider.

**DAMAGE CAPS FOR TRAUMA CARE** (Section 538.213) - Limits civil damages against certain physicians, dentists, hospitals and hospital employees to \$150,000 in claims arising out of emergency room care.

**CAPS ON ATTORNEY CONTINGENT FEES IN MED MAL CASES** (Section 538.224) - Limits attorneys' contingency fees in medical malpractice tort actions to 33% of the first \$50,000, 28% of the next \$50,000 and 15% of the next \$500,000 and 10% of any amount exceeding \$600,000. In no case shall an attorney collect fees, charges, or other costs that in the aggregate total more than 33% of the total damages.

**AFFIDAVIT OF MERIT** (Section 538.225) - This provision would require (current law is discretionary) a court to dismiss any medical malpractice claim for which the plaintiff fails to file an affidavit stating that he or she has obtained the written opinion of a health care provider which states that the defendant failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure caused the plaintiff's damages. The act limits extensions of time to file such affidavit to 90 days. The provision also requires the expert to be licensed and actively practicing in substantially the same specialty as the defendant.

**MEDICAL MALPRACTICE PUNITIVE DAMAGES** (Section 538.234) - This act limits punitive damages in medical malpractice actions to cases where the defendant's actions were due to evil motive or reckless indifference. Punitive damages are capped at two times the total actual damages.

**SEVERABILITY CLAUSE** (Section 1) - The act includes a severability clause.

*This partial summary was taken from a summary provided by Senate Staff.*

## **HCS/SB 399 DELIVERY OF CONTROLLED SUBSTANCES**

Expands Section 217.360, RSMo, the crime of delivering any controlled substances, alkaloid, personal property, gun, knife or other weapon to prisons, to include city and county jails and private prisons and jails. §217.360, RSMo

## **HCS SB 401 DEFINITION OF CRIME**

This bill adds to the definition of crime under Chapter 595, RSMo. For the purposes of this chapter, and only this chapter, a crime occurs at the time of the commission or attempted commission of the crime. The bill also increases the amount of money deposited from the Crime Victims' Compensation Fund to the state forensic laboratory account from \$250,000 to \$500,000. §595.010 and 595.045, RSMo

## **SB 426 DISASTER SERVICE**

Changes the period of time a state employee, who is certified by the American Red Cross as a disaster service volunteer, may be granted leave with pay. A state employee could be granted leave for up to one hundred twenty work-hours rather than the fifteen calendar days as under current law. §105.267, RSMo

### **SCS SB 447 BASIC CIVIL LEGAL SERVICES FUND**

This bill establishes the "Basic Civil Legal Services Fund" and authorizes additional filing fees in civil and criminal cases to be credited to the fund.

Moneys collected for this fund are to be paid by the court clerk to the Office of State Courts Administrator; the Missouri Supreme Court is to determine and oversee the administration of this fund. §477 and 488, RSMo

### **CCS HCS SB 448 STATEWIDE COURT AUTOMATION**

This bill extends the sunset provision of the court automation fund to 2009. The court automation committee sunset is extended to 2011. §476.055, RSMo

### **SB 457 JUDICIAL CONFERENCE**

Provides that vacancies of positions on the Judicial Conference shall be filled for the unexpired term of any member as provided by resolution of the judicial conference. §476.340, RSMo This bill is identical to HB 430.

### **HCS SB 465 JUDICIAL FINANCE COMMISSION REPORT**

Modifies the annual report of the Judicial Finance Commission to include separate information on all divisions of the circuit court of each county, including the probate division. The bill also provides that, for budgeting disputes between counties and circuit courts that are submitted to the Judicial Finance Commission within 90 days of the end of a fiscal year, the Commission must resolve the dispute within 90 days of the beginning of the subsequent fiscal year. §50.640 and 477.600, RSMo

### **SCS SB 466 STANDARD FEE**

Deletes duplicate statutory language relating to sheriffs' fees and the county fees. §57.290, 67.133, 488.4014, and 488.5320, RSMo

### **SB 467 CRIME VICTIMS' COMPENSATION FUND**

This is a "technical" bill which modifies a section of law to make it consistent with a previous change to Section 595.045, RSMo, which increased the surcharge for the Crime Victims' Compensation Fund from \$5 to \$7.50. §488.5339, RSMo

### **SB 468 LAW ENFORCEMENT RECORDS**

Clarifies what information must be reported to the highway patrol for DWI cases as follows: "Dispositions that shall be reported are pleas of guilty, findings of guilty, suspended imposition of sentence, suspended execution of sentence, probation, conditional sentences, sentences of confinement and any other such dispositions that may be required under state or federal regulations." §43.080 and 577.051, RSMo

### **SB 471 CHILD SUPPORT WITHHOLDING**

Deletes the requirement that the Division of Family Services must file all income withholding orders with the circuit clerk in child support cases. §454.505, RSMo

## **HCS SB 474 COURT SURCHARGES**

Removes the requirement that the Office of State Courts Administrator be notified of a change in the amount of the surcharge in civil filings. The bill also provides that moneys from the law library fund may be used by Butler and Ripley counties for courtroom renovation and technology enhancement. §488.426 and 488.429, RSMo

## **SB 537 BOONE COUNTY COUNSELOR**

Authorizes the Boone County Counselor to prosecute certain misdemeanors in order to seek a civil fine of not more than \$1,000 per violation. Fines collected pursuant to this bill shall be paid into the county general fund to be used to pay for the cost of enforcement of such misdemeanors. §56.640, RSMo

## **SB 552 PROPERTY EXEMPT FROM ATTACHMENT**

Expands the list of property exempt from attachment to clarify that all qualified retirement plans will be exempt. §513.430, RSMo

## **HCS SS SS SCS SB 556 & 311 PROTECTION OF THE ELDERLY**

This bill modifies various provisions relating to the protection of the elderly, and creates several new crimes and provisions for administrative review and appeal to the circuit court including:

Any person who operates or maintains an unlicensed residential care facility I or II, intermediate care facility, or skilled nursing facility, will be guilty of a class D felony if abuse or neglect occurs. Any administrator of a facility that knowingly conceals an act of abuse or neglect that results in death or serious physical injury will be guilty of a Class D felony. Any person who abuses or neglects a resident of a facility shall be subject to criminal prosecution pursuant to Sections 565.180, 565.182, and 565.184, RSMo;

Any employee of the Department of Health and Senior Services who knowingly discloses the time of an unannounced inspection will be guilty of a Class A misdemeanor and will be immediately terminated;

Financial exploitation of an elderly or disabled person is a Class A misdemeanor if the property is less than \$50, a Class D felony if the property is \$50 but less than \$500, a Class C felony if the property is \$500 but less than \$1000, and a Class B felony if the property is \$1,000 or more;

Any person who purposely files a false report of abuse or neglect to the Department of Mental Health will be guilty of a Class A misdemeanor. Any person having a prior conviction of filing a false report of abuse or neglect will be guilty of a Class D felony;

If an in-home service provider fails to report abuse or neglect, the Department may impose a fine of \$1,000 per violation against the provider. Providers may seek administrative review of the decision and may appeal to the circuit court. Violation is defined as a determination of guilt;

The terms "knowingly" and "recklessly" are defined for placement on the employee disqualification list. A person acts "knowingly" with respect to the person's conduct when a reasonable person would be aware of the nature of the person's conduct. A person acts "recklessly" when consciously disregarding a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and the disregard is a gross deviation from the reasonableness standard;

An in-home services provider will be guilty of a Class A misdemeanor for knowingly employing a person who is on the disqualification list, who refuses to register with the Family Care Safety Registry, or who is listed on any of the background check lists in the Registry. §197.725, 198.006, 198.015, 198.022, 198.032, 198.036, 198.067, 198.070, 198.082, 198.086, 198.105, 198.525, 198.526, 198.532, 565.186, 565.188, 570.145, 630.140, 630.165, 630.167, 660.078, 660.250, 660.261, 660.270, 660.300, 660.305, 660.315, 660.317, 660.320, and 660.603, RSMo

## **HOUSE BILLS**

### **HCS HB 133 ELECTION CONTESTS INVOLVING SOME JUDGES**

This bill requires that election contests involving the offices of circuit or associate circuit judges be filed and determined in an adjoining circuit court selected by the contestant. §115.531 and 115.575, RSMo

### **HCS HB 138 DEPARTMENT OF CORRECTIONS/OFFENDERS**

Establishes the "Corrections Officer Certification Commission" within the Department of Corrections, and makes offenders under 17 emancipated for purposes of decision-making about programs and services.

The bill also revises procedures in information given when transferring offenders. It would require that appropriate information relating to an offender be provided to the Department of Corrections, including a certified copy of the sentence on the standardized form developed by the Office of the State Courts Administrator. §217.305 and 217.380, RSMo

### **HB 141 ADMINISTRATIVE SUBPOENAS PROCEDURE**

Allows a party to a contested case with a state agency to apply to a court for enforcement of a subpoena, as opposed to the present law allowing only the agency. The bill also allows the agency or any party to intervene in an enforcement action. §536.077, RSMo

### **CCS SCS HS HCS HB 228 UNSOLICITED ELECTRONIC MAIL**

This bill makes it illegal to: send unsolicited commercial electronic mail (e-mail) to any subscriber who has asked the sender not to send any additional unsolicited e-mail; send unsolicited commercial e-mail without using "ADV:" as the first four characters in the subject line or "ADV:ADLT" if the message contains adult material; or, use a false identity or false or misleading information in the subject line of any commercial e-mail message. The attorney general may initiate proceedings against violators, impose injunctions and civil penalties of up to \$5,000 for each violation up to a maximum of \$25,000 per day, and seek additional relief. Violators are also subject to penalties provided in merchandising practices law. Civil penalties recovered will be credited to the Merchandising Practices Revolving Fund. There is a two-year statute of limitations, and state courts can exercise personal jurisdiction over nonresidents.

The attorney general is required to investigate reports of pornographic web sites and demand removal of the material. If the web site operator does not remove the alleged pornography, the Attorney General may seek an injunction to remove the material from the web site operator's server. Chapter 407, RSMo

### **HCS HB 253 SSN/ORDERS OF PROTECTION**

Prohibits disclosure of petitioner's SSN for an order of protection. The court may require that the SSN be retained on a confidential record. §455.030, RSMo

## **HB 254 UNIFORM ELECTRONIC TRANSACTIONS ACT**

Repeals the Missouri Digital Signatures Act (Sections 28.600 - 28.678, RSMo) and enacts the Uniform Electronic Transactions Act, making electronic transactions as enforceable as traditional paper transactions if the parties agree to transact electronically. The act does not apply to the creation and execution of wills, codicils, and testamentary trusts. §28.600, 28.603, 28.606, 28.609, 28.612, 28.615, 28.618, 28.621, 28.624, 28.627, 28.630, 28.633, 28.636, 28.639, 28.642, 28.645, 28.648, 28.651, 28.654, 28.657, 28.660, 28.663, 28.666, 28.669, 28.672, 28.675, 28.678, and 28.681, RSMo

## **HCS HB 318 CASS COUNTY MUNICIPAL COURT**

Provides that Cass County may mandate that all county traffic violations are to be heard by an associate circuit judge. Chapter 67, RSMo (Identical to SB 101)

## **CCS SS SCS HB 327 TRANSPORTATION**

The legislation would revise procedures relating to transportation; transportation districts; the operation of motor vehicles; criminal history checks for school bus driver applicants; speed limits for motor vehicles; expansion of prior and persistent offender definitions as they relate to intoxicated-related offenses; and abandoned property.

The legislation also revises numerous provisions relating to commercial drivers' licenses, in compliance with federal regulations. Courts must forward to the Department of Revenue, within seven days, a record of any guilty conviction involving a moving traffic violation. The director will be required to enter any conviction information into the appropriate computer systems and transmit the conviction information as required by federal requirements. Commercial driver's license holders will not be allowed limited driving privileges for the purpose of operating a commercial motor vehicle if their driving privileges are suspended, revoked, canceled, denied, or disqualified. The bill modifies the definition of "serious traffic violation" to include driving a commercial motor vehicle: (1) Without a commercial driver's license; (2) Without a commercial driver's license in possession; and (3) Without the proper commercial driver's license class or endorsement.

Effective 9/30/05, no federal, state, county, municipal, or local court can defer imposition of judgment, suspend imposition of sentence, or allow an individual who possesses or is required to possess a commercial driver's license to enter into a diversion program that will prevent a conviction for any violation of any traffic law from appearing on the driver's record maintained by the director.

The bill clarifies that drivers charged with alcohol-related offenses will be ineligible for a suspended imposition of sentence whether the drivers are in municipal court or state court. §137.298, 144.062, 191.831, 226.525, 226.535, 227.120, 238.207, 238.210, 238.215, 238.220, 238.222, 238.235, 238.236, 292.602, 301.010, 301.069, 302.225, 302.272, 302.302, 302.304, 302.309, 302.540, 302.700, 302.725, 302.735, 302.740, 302.755, 302.756, 302.760, 302.775, 304.013, 304.015, 304.035, 304.580, 307.125, 307.127, 307.177, 307.400, 389.610, 390.020, 577.023, 577.041, 577.049, 577.054, and 577.520, RSMo

## **SS HS HCS HB 349, 120, 136 & 239 CONCEALED WEAPONS**

This bill will provide for sheriffs to issue permits to carry concealed weapons, subject to a number of restrictions. Appeals of denial of such permits can be filed in small claims court, as can petitions for revocation. §571.030, RSMo

## **HB 430 JUDICIAL CONFERENCE**

Provides that vacancies of positions on the Judicial Conference shall be filled for the unexpired term of any member as provided by resolution of the judicial conference. §476.340, RSMo This bill is identical to SB 457.

## **CCS SCS HB 470 METHAMPHETAMINE REVISIONS**

This bill prohibits the sale of more than two packages, or six grams, of any over-the-counter drug having a sole active ingredient of ephedrine, pseudoephedrine, or phenylpropanolamine. The bill also prohibits the sale of three packages, or nine grams, of any combination drug containing ephedrine, pseudoephedrine, or phenylpropanolamine. Packages having a sole active ingredient of ephedrine, pseudoephedrine, or phenylpropanolamine must be kept behind the counter, or within 10 feet of an attended checkout counter and within the view of the checker. This provision does not apply to stores that have an electronic anti-theft system using a detection alarm and product tags on these drugs. The bill supercedes any local ordinance passed on or after December 23, 2002, to the extent the ordinance is more restrictive. Violation of this provision is a class A misdemeanor.

The bill creates the crime of unlawful release of anhydrous ammonia, a class B felony. A person commits the crime when he or she is not the lawful possessor of anhydrous ammonia and releases the chemical into the atmosphere.

The bill also authorizes courts to order a defendant convicted of a drug crime to pay for the testing of the drug at a private lab. §195.417, RSMo

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## **SCS HB 552 LAW LIBRARY FUNDS**

Allows law library funds collected in Butler, Ripley, Scott, Mississippi, Washington, Madison, Howell, St. Francois, and Franklin counties to be used for courtroom renovation and technology enhancement. §488.429, RSMo

## **HB 599 JACKSON COUNTY MUNICIPAL COURT COSTS**

Adds up to \$5.00 in court costs in municipal cases in Kansas City to be used for procurement, installation, maintenance, consulting services, and upkeep of court information and records management system. Chapter 488, RSMo

## **CCS SS SS SCS HCS HB 600 INCOME TAX REFUND OFFSET**

This bill makes changes to numerous statutes relating to taxation. As it relates to the courts, it contains language that provides for an income tax refund setoff where there are unpaid court costs, fines or fees. The Office of State Courts Administrator is to administer and set guidelines for the program. The bill also allows a court to assess an additional \$25 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition and allows the courts to hire private collectors to collect past due fines. Finally, the bill requires as a condition of state government employment that all state income taxes due be filed and paid by the employee.

This bill has an emergency clause; it was signed on 7/1/03.

## **CCS SCS HCS HB 613 COURT PROCEDURES**

This bill revises numerous court procedures including:

Allows the State Highway Patrol to establish procedures for receiving criminal history requests from courts and other entities and allows those entities to pay for them by electronic means (§43.530, RSMo);

Imposes a time limit on handing down Judicial Finance Commission opinions when the dispute is submitted within 90 days of the end of the fiscal year (§50.640);

Requires the Division of Family Services to notify only one parent of an alleged abused child prior to interviewing the child and prohibits the division from meeting with the child at the child's school or child care facility (§210.145);

Requires, in a dissolution of marriage proceeding, that an entry of appearance filed by the respondent be notarized (§452.311);

Deletes the requirement that income-withholding orders be filed with circuit clerks in child support cases (§454.505);

Provides that filing fees will not be assessed to petitioners in actions seeking protective orders (§455.027 and 455.504);

Eliminates, effective January 1, 2004, any requirement that petitioners for protection orders provide their Social Security numbers on petitions or case documents, although courts may maintain the number on confidential case sheets (§455.030);

Requires that a copy of a child protection order and notice of the date for the hearing shall be forwarded to the juvenile office (§455.516);

Requires moneys received in connection with the preparation of court transcripts to be deposited in the state court administration revolving fund (§476.058);

Provides that vacancies of positions on the Judicial Conference shall be filled for the un-expired term of any member as provided by resolution of the judicial conference (§476.340);

Allows the fine collection center to accept littering tickets and tickets for stealing or damaging historical objects and state parks (§476.385);

Updates the statute relating to reporting information for the annual report of the Judicial Finance Commission to agree with the authority of the Supreme Court allowing courts to consolidate (§477.600);

Removes the requirement of notifying the Office of State Courts Administrator when a circuit court chooses to modify its law library surcharge (§488.426);

Allows law library fees to be used for courtroom renovation and technology enhancement in Butler and Ripley counties (§488.429);

Provides that surcharges for the "Family Services and Justice Fund" will not be assessed to petitioners in adult abuse cases, but may be assessed against respondents (§488.2300);

Allows witnesses a fee of \$25 per day plus mileage (§491.280);

Requires, beginning July 1, 2004, that the names on the master jury list be chosen from certain source lists. The names of potential jurors on the list are public record (§494.410);

Amends the statute on time computation in civil cases to exactly match the corresponding Supreme Court rule (§506.060);

Allows for legislative continuances in court during special and veto sessions and during interim committee assignments (§510.120);

Prohibits administrative agencies from amending or modifying judgments or decrees entered by courts (§511.350);

Includes associate clerks in the requirement to enter abstracts (§511.510 and 512.180);

Changes from \$8,000 to \$15,000 the value of the exemption of a homestead from attachment (§513.475);

Allows a party to a contested case with a state agency to apply to a court for enforcement of a subpoena. The bill also allows the agency or any party to intervene in an enforcement action (§536.077); and

Requires that names of grand jurors are chosen from the master jury list (§540.021).

## **CCS SS HS HCS HB 679 & 396 FOSTER CARE REFORM**

37.705: Establishes Office of Child Advocate for Children's Protection and Services within the Office of Administration

37.710: Allows the Office of Child Advocate to have access to specified information about children in protective custody, reports of child abuse and neglect, and records concerning protective services for children. Outlines the authority of the Office

43.503: Requires law enforcement agencies and court clerks to submit certain criminal arrest, charge and disposition information to the central repository within 15 days of disposition for purposes of maintaining complete and accurate criminal history information. The names of juveniles not certified as adults may not be made available to the central repository. Juveniles who are certified as adults are to be fingerprinted immediately.

43.527: Specifies that there is no charge for information supplied from the criminal history registry to criminal justice agencies for the administration of criminal justice.

43.532: Requires criminal history and identification records obtained from the central repository to be used only for the purpose for which they were obtained. Allows the subject of a record to challenge the accuracy of the criminal history record. Anyone obtaining criminal history record information under false pretenses is guilty of a class A misdemeanor.

43.543: Allows specified state agencies to require applicants to submit fingerprints for a criminal history record check, and requires the fees for such a check to be paid by the applicant or in a manner prescribed by the Highway Patrol.

135.327: Removes \$2 million aggregate cap on special needs adoption tax credit.

168.282: Designates specified provisions the "Dominic James Memorial Foster Care Act of 2003".

168.283: Requires persons employed by a school after January 1, 2004 and those employed for less than two years with negative history in their personnel file to have a criminal background check before having any unsupervised conduct with a child.

192.016: Provides that lack of knowledge of pregnancy does not excuse the failure to file a paternity action, or with the putative father registry. Specifies the requirements for a statement concerning the putative father registry that must be produced and distributed by the Department of Health and Senior Services.

207.060: Requires Division of Family Support to operate and maintain a full-time office in each county.

207.085: Employees of the Division of Family Services who are involved with child protective services and who purposely, knowingly, and willingly violate a policy, rule, or state law that is related to the child abuse and neglect activities of the division must be dismissed if the violation results in serious physical injury or death. This section applies to merit and non-merit employees of the Division. Juvenile officers or juvenile office employees who

purposely, knowingly, and willingly act or neglect to act in a way that results in the serious physical injury or death of a child must be dismissed pursuant to Supreme Court rules governing personnel.

208.204: Requires the Department of Social Services to look at children in its custody and determine which ones are there solely because of a mental health issue. These children may be returned to their families, and the Department of Mental Health must provide necessary services. The Department of Social Services is to be billed for the cost of care by the Division of Mental Health.

210.025: Changes reference to "probable cause" standard to "preponderance of the evidence" standard. (Section deals with background checks for persons receiving federal or state funds for child care)

210.109: Reports of child abuse and neglect made by mandated reporters may not be made anonymously, except for school personnel who are only required to disclose their classification as a mandatory reporter. All other reporters may remain anonymous.

210.111: Requires the Division of Family Services to identify all children in its custody who are receiving foster care services by January 1, 2004 and report to the General Assembly the type of foster care being provided and the status of all children. Does not require disclosure of the identity or precise location of any child.

210.113: Requires the Division to submit a report to the General Assembly by January 15, 2006 and each January 15 through 2008, which contains specified details about the privatization of direct services for children, including information and recommendations from contracting providers. This section also establishes the goal of obtaining accreditation within five years of the effective date of the section.

210.147: All information provided at a meeting or hearing relating to the removal of a child from the child's home is confidential, except a party or parent may waive confidentiality for himself or herself, and that no one may be required to sign a confidentiality agreement prior to testifying or providing information at such a meeting. If the individual does not agree to maintain the confidentiality of the information provided, the individual may be excluded from all portions of the hearing or meeting during which he or she is not testifying or providing information. Hearings and meetings held regarding the removal of a child from the child's home may be recorded by the child, parent or any party. Information contained in the recording is not considered confidential after the 72-hour status conference, to the extent that the information is not otherwise privileged, unless the court enters an order prohibiting the disclosure of the information.

210.152: Reduces the amount of time DFS must keep an unsubstantiated report of child abuse made by a mandated reporter from ten to five years. Changes references to "probable cause" standard to "preponderance of the evidence." Requires the alleged perpetrator be given the opportunity to appear and present testimony before the Child Abuse and Neglect Review Board (CANRB). Allows an alleged perpetrator who is aggrieved by the CANRB's decision to demand that the Division initiate de novo circuit court proceedings. The demand must be made within 60 days of the notification of the CANRB's decision, and the proceedings are to be initiated in Cole County within 14 days. The alleged perpetrator may change the venue to the county in which the alleged perpetrator resides. The Division is the petitioner in such a proceeding, and must prove that the alleged perpetrator abused or neglected a child by a preponderance of the evidence.

210.160: Requires the GAL and/or CASA volunteer to be informed of and have the right to attend all meetings involving the child upon appointment by the court. Gives the judge the authority to examine the general and criminal background of individuals appointed as GALs and CASA volunteers, including using the Family Care Safety Registry. Requires the GAL to advocate for timely court hearings to achieve permanency for the child as soon as possible.

210.187: Requires the Children's Juvenile Justice Task Force established in accordance with federal law to conduct an independent review of the policies and procedures of state and local child protective services agencies, and to conduct reviews of specific cases, when appropriate, to evaluate the extent to which agencies are effectively discharging their responsibilities.

210.482: Allows the Division or Juvenile Office to request a name-based criminal history check when an emergency placement of a child must be made, and requires the Division or Juvenile Office to determine whether any person over the age of 18 is listed on the child abuse and neglect registry. After the initial name-based search, all persons in the home age 18 and over must submit two sets of fingerprints for a more extensive criminal background check. If placement of a child is denied because of the name-based search and the denial is contested, the members of the household age 18 and over must submit fingerprints for a background check within five business days. An "emergency placement" is when a child is placed in a private home because of the sudden unavailability of the child's parent or caretaker.

210.487: Requires the Division to conduct a search for full orders of protection for anyone seeking a foster parent license, or any adult in the applicant's household. The applicant and any adult in the applicant's household must also submit two sets of fingerprints for a criminal background check.

211.031: Requires the court to grant a change of judge, a change of venue, or both upon the motion of a child or the child's parent. Requires the juvenile officer send reports that only involve violations of the compulsory school attendance law to the school district in which the child resides. This section also provides for the referral of such violations to the local prosecuting attorney.

211.032: Requires a status conference to be held within three days of a child being taken into custody, and requires the court to make reasonable efforts to notify specified individuals, including biological parents and foster parents of the status conference. Specifies issues that must be addressed at the status conference. A protective custody hearing may be requested at the status hearing, and such hearing must be held within 14 days of the request. An adjudication must be held no later than 60 days after the child has been taken into custody, and if at that time the court determines there is sufficient cause for the child to remain in the state's custody, the court shall conduct a dispositional review no later than 90 days after the child has been taken into custody. The court must then conduct review hearings every 90 to 120 days during the first year, and at least every six months after the first year. If placement results in the child attending a different school the child's records shall be automatically transferred or upon request of the foster parents and when possible, the child shall be allowed to continue attending the school he or she attended prior to being taken into the custody of the Division.

211.059: Requires that the questioning of a child who is in custody because of delinquency or a criminal violation cease if the child wishes to have a parent, guardian or attorney present during the questioning. Allows interrogations or interviews of children taken into custody based on allegations of child abuse to be audiotape, videotape, or digitally recorded whenever possible, except for good cause shown based on the best interests of the child. Failure to comply with the recording requirement will render statements made by the child inadmissible in future judicial proceedings.

211.171: Adds intersectional references to section 211.321. Clarifies that foster parents are to be provided with notice of all hearings. Also provides that the court not grant continuances in juvenile proceedings unless there are compelling extenuating circumstances. The court must make written findings on the record about the specific reasons for granting a continuance.

211.321: Juvenile court proceedings involving children or persons aged 17 who are in need of care and treatment (211.031.1(1)), and termination of parental rights cases, except for adoption cases, are open to the public. The court can close proceedings, in whole or in part, on its own motion to protect the welfare and best interests of the child, and for exceptional circumstances. The victim and any party except the state can file a verified motion requesting the general public be excluded from all or part of the proceedings. The court shall hear arguments on such a motion, and make a finding on the record. The general public is excluded during the testimony of a child or victim. All records are closed until the 72-hour hearing, and are open after that, unless specifically closed. The 72-hour status conference is closed until arguments have been presented and the court makes a determination as to whether to close the hearings and records. Records of the juvenile court are to be made by stenographic, mechanical, or electronic recording, as appropriate. Pleadings and orders, other than confidential files and those specifically closed are open to the general public. "Confidential files" is defined. Any parent can waive confidentiality for him or her self, but only the court may waive confidentiality for a minor child. The identity of the victim and all references to the identity of the victim must be redacted from all records made available to the public prior to their disclosure. Allows the court, on its own motion or the motion of a child, the child's representative, or the juvenile officer, to enter an order to destroy social histories, records and information, other than the official court file, and to enter an order to seal the official court file and peace officer records after the child reaches the age of seventeen, or if jurisdiction continues after the child reaches seventeen then when the case is closed, if the court finds that such action is in the best interests of the child. The provisions of this section apply to proceedings initiated on or after August 28, 2003.

453.020: Requires a \$50 filing fee for adoption petitions, to be used to fund the putative father registry.

453.060: Requires a search of the Missouri putative father registry and the putative father registry of another state, if the child was born in another state in adoption cases where the putative father is unknown. Requires a father who is discovered as a result of the search of the putative father registry to be served with the adoption petition.

491.075: This section changes from 12 to 14 the age limitation under which certain statements made by children relating to offenses pursuant to Chapter 565, RSMo (Offenses Against the Person); Chapter 566 (Sexual Offenses); and Chapter 568 (Offenses Against the Family) are admissible into evidence in criminal proceedings in certain situations.

492.304: The visual and aural recording of a verbal and non verbal statement of a child under the age of 14 is still admissible if an attorney representing the state of Missouri in a criminal investigation observes the taking of the statement of a child at a state-funded child assessment center as part of a multidisciplinary investigation team, as long as the attorney is not present in the room where the interview is conducted.

516.600: An action to recover damages for injury or illness that resulted from child sexual abuse must be commenced within 12 years of the date the plaintiff reached the age of 18, or within three years of the date the plaintiff discovered or reasonably should have discovered that the illness or injury resulted from child sexual abuse, whichever date is later.

537.046: Deletes statute of limitations for bringing civil suit for child sexual abuse. (Statute of limitations is moved to section 516.600)

*The above are excerpts from a full bill summary prepared by House Research Staff.*